

Town of Amherst
Zoning Board of Appeals - Special Permit
DECISION

Applicant and Owner: Brenna and Stephen Kucinski
89 North East Street, Amherst, MA 01002

Date Application filed with the Town Clerk: April 7, 2006

Nature of request: Petitioner seeks a Special Permit, under Section 6.3 of the Zoning Bylaw, to renew Special Permit ZBA FY2004-00044 for a flag lot.

Location of property: North East Street (Map 15A, Parcel 34, R-N Zone)

Legal notice: Published in the Daily Hampshire Gazette on April 26 and May 3, 2006, and sent to abutters on April 26, 2005.

Board members: Tom Simpson, Barbara Ford and Hilda Greenbaum

Submissions: The applicants submitted the following documents:

- Plan entitled "Subdivision Approval Not Required", dated March 5, 2004, prepared by Harold L. Eaton and Associates, Inc.
- Copy of Special Permit ZBA FY2004-00044.

Site Visit: May 9, 2006

At the site visit the Board was met by Brenna and Steve Kucinski. The Board observed the following:

- The location of the flag lot on a heavily-traveled rural road, surrounded by farmland and adjacent to an indoor riding ring;
- The location of the proposed driveway, within the access strip, along an existing tree line;
- The point along the road where the driveway will exit the site;
- The location of the property line and existing fence marking the south side of the access strip.

Public Hearing: May 11, 2006.

At the public hearing Brenna Kucinski presented the petition. She made the following statements:

- The applicants are applying for renewal of their Special Permit for a flag lot;
- Access will be off North East Street;
- The access strip will be approximately 40 feet wide and 473 feet long;
- The size of the lot is 62,112 square feet, including the access strip, and 43,115 square feet, exclusive of the access strip;
- The nearest fire hydrant is 700 feet away, on the west side of the road;
- The driveway will cross a stream shortly after it leaves the road and enters the site;

- The Conservation Commission issued an Order of Conditions for construction of the driveway, permitting the stream crossing; the Order is in effect for one more year;
- The driveway will be 12 feet wide;
- A final grading and drainage plan for the driveway will be submitted to the Board;
- The lot will be developed for a single-family house;
- The applicants would like to renew the Special Permit with the same conditions as were contained in the previous Special Permit.

No members of the public spoke.

Hilda Greenbaum MOVED to close the evidentiary portion of the public hearing. Tom Simpson SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

Public Meeting – Discussion

The Board discussed, with the Building Commissioner, Bonnie Weeks, whether the conditions of the previous Special Permit were still appropriate. The Board concluded that the conditions were appropriate. The Board also noted that the findings from the previous permit were still appropriate.

Public Meeting – Findings:

The Board finds under Section 6.3 of the Zoning Bylaw, Flag Lots, that:

- 6.32 – The building area of the proposed lot is more than double that required in an R-N zoning district.
- 6.33 – The access strip or pole is 40.23 feet, meeting the required minimum street frontage of 40 feet. The access strip does not have a change in direction.
 - 6.330 – The proposed flag lot is not within any overlay district and will not have a detrimental impact on any such district.
 - 6.331 – The access strip of more than 400 feet is allowable, if it will not create an undue safety hazard. The proposed lot has good visibility and access to a fire hydrant is nearby.
 - 6.332 – No potential substantial adverse impact on environmentally sensitive areas has been identified as a result of the proposed lot.
 - 6.333 – The natural features of the farm and the view of the Pelham hills to the east will not be removed, destroyed or obstructed.
 - 6.335 – There will be no known impact on historical, archeological and/or cultural resources of the area.
- 6.36 – There is only one flag lot proposed.
- 6.37 – Access to the lot is unimpeded, and can be designed to not exceed 5% grade within 50 feet of the street line, under the provisions of Bylaw Section 7.7

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings, that:

- 10.380 – The proposal is suitably located in a neighborhood of single family homes and open farmland. It is just north of an existing Village Center.
- 10.381 – The proposal will not interfere with the workings of the surrounding farmland, other residences and uses permitted by right in the same zoning district.

- 10.382 – As a single family residence, the proposal will not constitute a nuisance under this section.
- 10.383 – The proposed single family house location is removed from the road and other homes, and hence will not be an inconvenience or hazard to abutters or vehicles on North East Street.
- 10.384 – The proposed size of the lot and width of access strip will allow for proper operation of a residence.
- 10.385 – The proposal reasonably protects the adjoining premises against detrimental or offensive uses.
- 10.386 – No signs are included with the proposal, and parking will be provided as shown on an approved site plan in conformance with Articles 7 and 8 of the Bylaw.
- 10.387 & 10.389 – The proposed driveway will provide safe vehicular and pedestrian movement within the site and in relation to adjacent streets and property, because a site plan for the house and driveway will be required to be approved by the Board prior to a building permit being issued. In addition, permits from the Board of Health will be required for any on-site septic or water supply if the town water/sewer facilities will not be used.
- 10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw in that it creates additional housing while protecting active farmland and open space. The proposal protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Hilda Greenbaum MOVED to approve the application with the same conditions as the previous Special Permit ZBA FY2004-00044. Tom Simpson SECONDED the motion.

For all the reasons stated above the Board VOTED unanimously to approve the application with conditions to renew Special Permit ZBA FY2004-00044, for a flag lot, with a pole length of 473.86 feet, as applied for by Brenna and Stephen Kucinski, at North East Street, (Map 15A, Parcels 34, R-N Zone)

TOM SIMPSON

BARBARA FORD

HILDA GREENBAUM

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.

NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, with conditions, to renew Special Permit ZBA FY2004-00044, for a flag lot, with a pole length of 473.86 feet, as applied for by Brenna and Stephen Kucinski, at North East Street, (Map 15A, Parcel 34, R-N Zone) with the following conditions:

1. The petitioners shall submit a final revised Site Plan to the Board for approval at a public meeting showing:
 - a. The final location of the house and driveway;
 - b. The final grading and drainage plan for the driveway.
2. The driveway shall be at least 12 feet wide with clear shoulders of two feet on either side for snow storage and shall be capable of supporting emergency vehicles.
3. The house shall be single family only.
4. This application is subject to Section 14 of the Zoning Bylaw, Phased Growth. The Zoning Board of Appeals has assigned a development authorization date of June 2006.

TOM SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE